

REMARKS

In the Office Action dated September 21, 2010, claims 15-35 are pending and rejected. Reconsideration is requested for at least the reasons discussed hereinbelow.

The above amendment is submitted to more particularly point out and distinctly claim the subject matter regarded as invention. No new matter is added. Support can be found in the original specification at least at page 3, 2nd paragraph in connection with page 12, 1st paragraph and Fig. 7a..

Claims 15, 16, 34 and 35 are rejected under 35 U.S.C. §103(a) over Jones (US 3,931,657) in view of Buck (US 5,660,572) and Weingarten (US 2,597,211). Jones and Buck have been discussed in detail in Applicant's communication filed 19 March 2010.

In the present invention, the cover secures the zip handle against accidental opening. None of the cited prior art provide, *inter alia*, security against accidental opening of a zipper an swimming aid device. Nor do they suggest that such security even be provided.

The Examiner previously admitted at least that Jones fails to disclose "the buoyant beads, and a cover for the zipper handle." Buck is cited for a disclosure of "the construction of a PDF from buoyant beads" and, now, Weingarten is cited for a disclosure of "a zipper handle cover" (apparently to overcome the deficiencies of previously cited Nedbal).

Jones *fails* to teach or suggest a secure cover as recited in present claim 15. Rather, the zipper-type closure fastener 24 (cf. Fig. 1, col.2, l. 27-32) of the life vest of Jones is not secured by a cover. Thus, **Jones neither provides for, nor suggests the present safety concept.**

The claimed secure cover 25, which is particular effective when **co-acting with a zip** as the second releasable closure means, provides for **protection against accidental opening** of the second closure means and, thus, provides for **improved** safety when swimming (page 6, 2d paragraph and pages 11-12, bridging paragraph), which is important, e.g., for children learning to swim (page 4, 3d

and 4th paragraphs).

Furthermore, Jone's cord 23 and grommets 22 do not teach or suggest a first closure means according to the present invention (cf. item 6 of the Office Action, 4th para.) providing for variable body size adjustment. Even if a wearer would try to narrow the lateral opening between front panels 11 and back panels 12 by means of pulling the ring of cord 23 (cf. Figs. 1 and 3), the life vest of Jones would not allow one to set the adjustment of said lateral opening. That is because **no means are provided to fix said ring in order to set the adjustment of said lateral opening** and, thus, the combination of ring and cord 23 **is not designed for body size adjustment**.

Besides, even if the combination cord 23 and grommets 22 would provide for setting the adjustment of the lateral opening, cord 23/grommets 22 would not provide for a variable body size adjustment as recited in present claim 15. The human body is growing both in horizontal and in vertical direction. However, the life vest of Jones would be adjustable in horizontal direction only. Hence, Jones also *fails* to provide the present concept for variable body size adjustment.

Neither Buck, nor Weingarten nor their combination make up for the deficiencies in Jones. Applicant respectfully submits that Buck is not relevant, either. Buck **merely discloses** a flotation fabric wherein preexpanded plastic beads 2 made from e.g. polystyrene are sandwiched between cotton fabric webs 5, 6 (see, col. 1, lines 40-51; col. 2, lines 49-63; Figs. 5 and 6) and the use of said flotation fabric **for making a flotation garment** 22 (Fig. 7 and 8). However, this flotation garment has **neither a first nor a second closure means** (see, col. 1, lines 35-39; col. 3, lines 4-10; Figs. 7 and 8), as set forth in the presently claimed invention.

Hence, because Jones already fails to disclose a first closure means according to the present invention, a combination of Jones and Buck will not provide or suggest the present safety concept. Nor will the combination provide or suggest the presently claimed concept of variable body size adjustment.

Newly cited Weingarten relates to a child's winter garment, not a swimming aid device. Hence, this document relates to a **different technical field** and, thus, Applicant strongly contests that the person skilled in the art would take into account Weingarten when searching for an improved safety concept for a buoyancy/life vest.

However, even if the skilled person would take into account Weingarten and combine it with the teaching of Jones and Buck, he would not arrive at the swimming aid device according to present claim 15 because Weingarten **Fastener flap 29 does not provide for securing pull tab 28 of a zip against accidental opening, but is arranged for effectively shielding pull tab 28 against fouling by ice, packed snow or dirt and other foreign matter, in order to greatly facilitate removal of the garment** (see, col. 2, lines 16 - 31; Fig. 1).

Hence, the teachings of Weingarten also will not provide for a safety concept against **accidental opening** as set forth in present claim 15.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of a combination of Jones, Buck and Weingarten.

Claims 15-18, 16, 21-24, 28, 29 and 32-35 are rejected under 35 U.S.C. §103(a) over Kea (US 35,603,648) in view of Buck and Weingarten. Kea discloses an outdoor survival garment comprising **inflatable bladders as further, necessary buoyant elements** (see col. 3, lines 26-33 and lines 50-57), which will be inflated with air as the filling material. Besides, it is stressed that the outdoor survival garment of Kea **does not represent a swimming aid device**. The outdoor survival garment described therein **only provides floatability in case of emergency**, that is *a priori* in case the water sensing device 30 signals electric unit 31 to release a mechanism to inflate inflatable bladder 24 (see col. 3, lines 51-57). In contrast, present claim 15 is directed to a **swimming aid device for providing buoyancy**, that is a device providing buoyancy *a priori* and **by itself**.

The Examiner also previously admitted at least that Kea, like Jones, fails to disclose “the buoyant beads, and a cover for the zipper handle.”

As discussed above, neither Buck nor Weingarten nor their combination make up for the deficiencies in Kea. For example, neither Buck nor Weingarten teach or suggest a secure cover 25 to cooperate with a zipper as the second releasable closure means and provide for protection against accidental opening of the second closure means.

Regarding claims 17, 18, 28 and 29, Kea discloses a velcro fastener 19 supplemented by a pair of hook and eye fasteners (cf. col. 3, l. 19-25; Fig. 2). This concept strongly differs from the swimming aid device according to present claim 15 for the following reasons.

First, a pair of hook and eye fasteners is not a cover as recited in claim 15. Applicant submits that applying a cover to velcro fastener 19 would not secure velcro fastener 19 from opening. A closure means in form of a **velcro fastener 19 will much more easily be accidentally opened than a zip**, that is **one pair of hook and eye fasteners** (Figs. 1 and 2) **will not prevent accidental opening of velcro fastener 19**.

Moreover, the outdoor survival garment is a bulky and weighty construction (Fig. 3) because it comprises a plurality of layers and means (heating element layer 25, nutrient layer 26, gas receptacle 22 (col. 3, lines 28-36), illuminate fiber optic container 39 comprising light emitting diode leads 37 and rechargeable battery 610 (col. 4, lines 4-7 and 54)). Therefore, there is a high risk of accidental opening of velcro fastener 19 because the bulkiness and relatively high weight will not only limit freedom of swimming movements but, when the velcro fastener 19 is partly opened by (extensive) swimming movements, the relatively high weight of the garment of Kea will in turn provide for a further, eventually complete opening of velcro 19. Thus, there is no security against accidental opening.

The Examiner relies on KSR to make up for the deficiencies of the cited art. However, even

the court in KSR requires that one of ordinary skill in the art have the requisite knowledge and experience to make the invention from the prior art references. The Examiner has not explained how one of ordinary skill in the art would have made the claimed invention. A bald assertion that Kea suggests interchangeability of fastener types does not explain how one of ordinary skill in the art would have made the claimed invention in view of the shortcomings of the cited art as discussed above.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of a combination of Kea, Buck and Weingarten.

Claims 19-21, 30 and 31 re rejected under 35 U.S.C. §103(a) over Jones in view of Buck and Weingarten, and further in view of Samano (US 5,651,711). Samano also fails to make up for the deficiencies of Jones, Buck and Weingarten. Samano discloses a flag vest. It also fails to teach or suggest a secure cover 25 to cooperate with a zipper as the releasable closure means and provide for protection against accidental opening of the second closure means. Further, it fails to teach or suggest the claimed cover or a size-variable element that can be adjusted to the body size and having a first, releasable closure means, whereby the variable body size adjustment can be set.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Jones, Buck, Weingarten and Samano.

If, upon reconsideration, there remains any issues not resolved by the discussion above, it is requested that the Examiner call Applicant's undersigned attorney to discuss the remaining issues.

If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

In view of the discussion above, applicant respectfully submits that the pending application is in condition for allowance. An early reconsideration and notice of allowance are earnestly solicited.

Dated: January 21, 2011

Respectfully submitted,

Electronic signature: /George W. Neuner/
George W. Neuner
Registration No.: 26,964
EDWARDS ANGELL PALMER & DODGE
LLP
P.O. Box 55874
Boston, Massachusetts 02205
(617) 517-5538
Attorneys/Agents For Applicant